

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

STANLEY EUGENE BYNUM,

Defendant-Appellant.

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UNPUBLISHED

March 2, 2006

No. 257075

Wayne Circuit Court

LC No. 04-003653-01

Before: Cooper, P.J., and Jansen and Markey, JJ.

MEMORANDUM.

Defendant appeals by right his conviction and sentence for carjacking, MCL 750.529a, entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

First, defendant argues that the prosecutor failed to present sufficient evidence that he committed the carjacking. We disagree.

When reviewing the sufficiency of the evidence in a bench trial, we view the evidence in the light most favorable to the prosecution in order to determine whether a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Petrella*, 424 Mich 221, 268-270; 380 NW2d 11 (1985). A conviction for carjacking requires proof beyond a reasonable doubt that defendant used force or violence, or the threat of force or violence, to take a motor vehicle “from another person, in the presence of that person or the presence of a passenger or in the presence of any other person in lawful possession of the motor vehicle . . .” MCL 750.529a.<sup>1</sup> Here, complainant positively identified defendant as the individual who committed the offense. While defendant challenges her credibility, this was an issue for the factfinder to decide. *People v Daniels*, 172 Mich App 374, 378; 431 NW2d 846 (1988). In addition, the prosecutor’s case was supported by the testimony of complainant’s fiancé, who later discovered defendant in possession of items stolen from complainant during the carjacking. We find that the prosecutor presented sufficient evidence to support the conviction.

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<sup>1</sup> 2004 PA 128 amended the statute effective July 1, 2004.

Next, defendant argues that he must be resentenced because the trial court made essential findings regarding the nature of the offense that a jury should have decided pursuant to *Blakely v Washington*, 542 US 296; 124 S Ct 2531; 159 L Ed 2d 403 (2004). The *Blakely* Court struck down as violative of the Sixth Amendment a determinate sentencing scheme which allowed the sentencing judge to increase a defendant's maximum sentence on the basis of facts that were not reflected in the jury's verdict or admitted by the defendant.

We find defendant's arguments unpersuasive. First, defendant waived his Sixth Amendment right to a jury trial. Moreover, our Supreme Court has held that *Blakely* does not apply to Michigan's indeterminate sentencing scheme. *People v Claypool*, 470 Mich 715, 730 n 14, 732, 744 n 1; 684 NW2d 278 (2004).<sup>2</sup> Defendant is not entitled to resentencing on this basis.

We affirm.

/s/ Jessica R. Cooper

/s/ Kathleen Jansen

/s/ Jane E. Markey

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<sup>2</sup> Although the issue whether *Blakely* and *United States v Booker*, 543 US; 125 S Ct 738; 160 L Ed 2d 621 (2005) apply to Michigan's sentencing scheme is pending before our Supreme Court, we are bound by *Claypool*. See *People v Drohan*, 264 Mich App 77, 89 n 4; 689 NW2d 750 (2004), lv gtd 472 Mich 881; 693 NW2d 823 (2005).